



Plattsburgh, New York

Randal J. Stone
Assistant Chief

Plattsburgh Fire Department
65 Cornelia Street
Plattsburgh, NY 12901
Tel: 518-561-5965
Fax: 518-561-8236
stoner@cityofplattsburgh-ny.gov

MEMO

TO: Mayor Donald Kasprzak
Members of the Common Council

FROM: Assistant Fire Chief, Randal Stone

DATE: November 8, 2012

RE: Fire and Ambulance Responses

For this week's period: Thursday, November 1, 2012 to Wednesday, November 7, 2012
our Department has responded to the following:

Fire Calls	24
	2 cooking fires
	6 system activations
	10 EMS assist
	1 steam, other gas mistaken for smoke
	3 MVA
	1 excessive heat/scorch burns
	1 carbon monoxide incident
Ambulance Calls	44
Mutual Aid by CVPH	8

BUILDING INSPECTOR'S COMPLAINT REPORT: 11/06/12

DATE	STREET #	STREET NAME	COMPLAINT	INSP	INSPECTION REPORT	CORRECTION	DATE OF CORRECTION
10/30/2012	82	JOHNSON AVE	SHARED DRIVEWAY, NEIGHBOR'S TIED UP DOG IS IN DRIVEWAY WHEN THEY ENTER AND EXIT SHARED DRIVEWAY	KB		CORRECTIVE ACTION IN PROCESS	
11/1/2012	7	SANDALWOOD WAY	TOILET NOT FUNCTIONING, HIGH NUMBER OF RESIDENTS	KB		CORRECTIVE ACTION IN PROCESS	
11/5/2012	460	MARGARET ST	ASBESTOS REMOVAL	CB		CORRECTIVE ACTION IN PROCESS	
11/5/2012	74	ELIZABETH ST., APT. 1	POSSIBLE CROSSED WIRING	KB		CORRECTIVE ACTION IN PROCESS	

CITY OF PLATTSBURGH, NY

STATEMENT OF CASH RECEIPTS

Department of Public Library

The undersigned hereby certifies that the following is a complete statement of all monies payable to the City of Plattsburgh received by the above mentioned department, or by the undersigned, during the period beginning October 18, 2012 and ending on October 24, 2012 inclusive.

Purpose for which Received		Amount
6124-2450	Commissions	-
6126-2613	Overdue Charges	201.51
6126-2650	Sale of Scrap - Library Auction	-
6126-2655	Minor Sales	91.91
6127-2690	Lost/Damaged Property	-
6127-2701	Refund Prior Year Expense	-
6127-2705	Gifts and Donations	-
6127-2755	Trust Fund Income	-
6227-2760	CEF Library System	-
6330-3840	State Library Aid	-
6330-3842	State Aid	-
		-
	General	293.42
	Sales Tax @ 8.0% (Minor Sales - Supplies Only) T&A	7.99
	TOTAL	301.41

Dated, Plattsburgh, NY: October 25, 2012

Signed by Jamie A. Parrotte, Administrative Assistant

Received of Jamie A. Parrotte the aforesaid amount of:
Three hundred one and 41/100 dollars this 25th day of October 2012.

Richard A. Marks
Richard A. Marks
City Chamberlain

Richard Marks 10-26-12



Plattsburgh, New York

Derek J. Rosenbaum
Sole Assessor

Office of Assessment
41 City Hall Place
Plattsburgh, NY 12901
518 563-7708 office
518 563-6684 fax
rosenbaumd@cityofplattsburgh-ny.gov

October 24, 2012

Hon. Mayor Kasprzak

Re: Re-appointment of Michelle Branon to the Board of Assessment Review

Dear Mayor:

The Board of Assessment Review terms are 5 years in length and run from October 1st to September 30th. Therefore, on October 1st, 2012 there was a vacancy created. I am recommending Michelle Branon to be re-appointed to the Board of Assessment Review. Michelle is returning to this voluntary position with knowledge of residential and commercial parcels within the City and local area. Michelle is willing to commit to a five year term commencing 10/1/2012 and expiring on 9/30/2017.

Thank you for your consideration to this matter.

Sincerely,

Derek J. Rosenbaum
Assessor

cc: Keith Herkalo

JOHN E. CLUTE, ESQ.
CORPORATION COUNSEL
CITY OF PLATTSBURGH

121 Bridge Street
Plattsburgh, New York 12901

tel: 518-563-4884
fax: 518-563-5845
email: john@cctlaw.com

November 1, 2012

to: Mayor and Common Council

from: John E. Clute

re: Construction Loan to Catherine Gardens II

The developer of the Catherine Gardens (former MAI) property has applied to NYS for low income housing tax credit to complete the second and final phase of the project. The City has been asked to make a construction loan in the amount of \$360,000 for up to 18 months to assist with project financing. The City made a 416k loan on the first phase which was paid off with NYS grant funds. The phase II loan will be repaid by tax credit investors upon completion of the project. The City has been asked if it will commit to making a 360k loan on the second phase. Although it will be some time before the money is needed, George Hezel tells me that "community support", evidenced by a construction loan commitment, will improve the project's chances of getting the tax credit allocation. There follows a memo from George to me which explains the project and financing plan in more detail.

Our normal procedure is for the LDC loan committee to screen and process applications and make a recommendation to the Council, however, since this request does not fit within the guidelines, the LDC would like to know if the Council wishes to support the project by considering a construction loan. If you do, the LDC will review the loan request and make a recommendation.

Some facts that may be pertinent to this initial decision are:

1. The EDRLF has sufficient money to make the loan and will have sufficient money to make several other loans (of 50k or less) while this loan is outstanding.
2. Interest on EDRLF loans is used to offset CD operating costs. The current low interest rates on bank deposits (under 1%) has greatly reduced interest income. This loan will bear interest at 2.4%.
3. This loan is relatively "high risk" in that it will be secured by a second mortgage. The loan committee may recommend additional security in the form of a personal guaranty. (The general contractor provided a personal guaranty on the prior loan.)
4. The second phase of this project has received site plan approval and variances, however, the approvals may have to be extended because they are time limited.

October 3, 2012

To: John E. Clute

From: George Hezel

Re: Catherine Gardens Phase II

John, this memo responds to your memo of yesterday, October 2nd in which you set forth your understanding of the scope of the project and request further information to assist the Council in its consideration of the project.

The project will consist of three 4-unit townhouses, as approved by earlier action of the City when the site plan was discussed, considered, and approved for the first phase of Catherine Gardens. One of the townhouses will be identical to the three in the first phase and will contain four 3-bedroom units and the other two townhouses will each contain four 1-bedroom units, for a total of twelve units, four 3-bedroom and eight 1-bedroom. The responses below correspond to your numbered questions in the memo of yesterday.

- 1) The project requests a construction loan in the amount of \$360,000.
- 2) The construction loan would have a term of one year, with an option to extend for one six-month period. The term would not begin until we close on financing for the project, the timeline of which is estimated below.
- 3) The loan will be paid with equity from the tax credit investor in the project. Typically the tax credit investor schedules payments into the project at construction intervals. For example, equity payments may come in when construction is 50% complete, 75% complete, and 100% complete. We are still identifying the equity investor and would negotiate these payments as the project progresses. When the construction of the project is completed, an equity installment from the investor will be scheduled to pay off the construction loan. We anticipate that this would be one year after taking the loan, however, occasionally these timelines need some flexibility, which is why we would request the option to extend the term by six months, only if necessary.
- 4) The City would have a subordinate mortgage on the property. Typically, the commercial construction lender has a first priority loan because of the size of their loan. Unlike the previous phase, this phase has fewer funding sources so we anticipate that the City would be second in priority.
- 5) The project will require financing from the following sources:
 - a. Construction loan from a commercial bank not yet determined.

- b. Low income housing tax credits allocated by the New York State Homes and Community Renewal.
 - c. A grant from the New York State Housing Trust Fund Corporation.
 - d. Equity from a private tax credit investor.
- 6) The funding sources will all require the apartment units to be rented to low- to moderate-income persons.
- 7) Eight of the units will target, though not be exclusively reserved for, elderly occupants.
- 8) Application for the funding sources identified in “5” will be made on November 29, 2012. The New York State Homes and Community Renewal in its request for proposals says that it will reserve funds for successful applicants by June, 2013. However, we have no way of anticipating if, or when, the project will be funded. We think that this is a worthwhile project and, if not funded during this round, we would continue applying for funds in future rounds.
- 9) Construction start would follow the award of funds by four months, assuming local approvals are in place at that time. If the New York State Homes and Community Renewal awards funds on the schedule identified in “8”, construction start could occur in October, 2013.
- 10) The project will be assessed and taxed under Real Property Tax Law 581-a.
- 11) Based on the assessment and taxes paid in Phase I of Catherine Gardens, the project estimates taxes of \$4000 will be paid in the first year of operation with annual increases tracking annual income. The parcel to be developed is currently owned by the Senior Citizens Council of Clinton County, Inc., a tax exempt not-for-profit corporation.

11/01/2012 10:33
1427rmar

CITY OF PLATTSBURGH
CUSTOMER STATEMENT

CURRENT ADDRESS:

PARC
130 ARIZONA AVE STE 2000
PLATTSBURGH NY 12903

LOCATION:

MULTIPLE

PROPERTY CODE:

MULTIPLE

CUSTOMER ID: 7010

INTEREST DATE: 11/01/2012

YEAR TYPE	CHARGE	BILLED	PRIN DUE	INT DUE	FEE/PEN DUE	TOTAL DUE
2012 RE-R 1	12 City Tx	867.62	.00	.00	.00 PAID	
1 12 CNTYTX		503.56	.00	.00	.00 PAID	
1st INST. TOTAL		1,371.18	.00	.00	.00	.00
2012 RE-R 2	12 City Tx	867.62	.00	.00	.00 PAID	
2 12 CNTYTX		503.53	.00	.00	.00 PAID	
2nd INST. TOTAL		1,371.15	.00	.00	.00	.00
2012 RE-R 3	12 City Tx	867.62	.00	.00	.00 PAID	
3 12 CNTYTX		503.53	.00	.00	.00 PAID	
3rd INST. TOTAL		1,371.15	.00	.00	.00	.00
2012 RE-R 4	12 City Tx	867.62	.00	.00	.00 PAID	
4 12 CNTYTX		503.53	.00	.00	.00 PAID	
4th INST. TOTAL		1,371.15	.00	.00	.00	.00
BILL# 2935		5,484.63	.00	.00	.00	.00
2012 RE-R 1	12 City Tx	605.80	.00	.00	.00 PAID	
1 12 CNTYTX		351.60	.00	.00	.00 PAID	
1st INST. TOTAL		957.40	.00	.00	.00	.00
2012 RE-R 2	12 City Tx	605.80	.00	.00	.00 PAID	
2 12 CNTYTX		351.58	.00	.00	.00 PAID	
2nd INST. TOTAL		957.38	.00	.00	.00	.00
2012 RE-R 3	12 City Tx	605.80	.00	.00	.00 PAID	
3 12 CNTYTX		351.58	.00	.00	.00 PAID	
3rd INST. TOTAL		957.38	.00	.00	.00	.00
2012 RE-R 4	12 City Tx	605.80	.00	.00	.00 PAID	
4 12 CNTYTX		351.58	.00	.00	.00 PAID	
4th INST. TOTAL		957.38	.00	.00	.00	.00
BILL# 2936		3,829.54	.00	.00	.00	.00
2012 RE-R 1	12 City Tx	606.58	.00	.00	.00 PAID	
1 12 CNTYTX		352.06	.00	.00	.00 PAID	
1st INST. TOTAL		958.64	.00	.00	.00	.00
2012 RE-R 2	12 City Tx	606.58	.00	.00	.00 PAID	
2 12 CNTYTX		352.03	.00	.00	.00 PAID	
2nd INST. TOTAL		958.61	.00	.00	.00	.00

11/01/2012 10:33
1427rmar

CITY OF PLATTSBURGH
CUSTOMER STATEMENT

CURRENT ADDRESS:

PARC
130 ARIZONA AVE STE 2000
PLATTSBURGH NY 12903

LOCATION:

MULTIPLE

PROPERTY CODE:

MULTIPLE

CUSTOMER ID: 7010

INTEREST DATE: 11/01/2012

YEAR TYPE	CHARGE	BILLED	PRIN DUE	INT DUE	FEE/PEN DUE	TOTAL DUE
2012 RE-R 3	12 City Tx	606.58	.00	.00	.00 PAID	
3	12 CNTYTX	352.03	.00	.00	.00 PAID	
3rd INST. TOTAL		958.61	.00	.00	.00	.00
2012 RE-R 4	12 City Tx	606.58	.00	.00	.00 PAID	
4	12 CNTYTX	352.03	.00	.00	.00 PAID	
4th INST. TOTAL		958.61	.00	.00	.00	.00
BILL# 4514						
		3,834.47	.00	.00	.00	.00
2012 RE-R 1	12 City Tx	715.00	.00	.00	.00 PAID	
1	12 CNTYTX	414.96	.00	.00	.00 PAID	
1st INST. TOTAL		1,129.96	.00	.00	.00	.00
2012 RE-R 2	12 City Tx	715.00	.00	.00	.00 PAID	
2	12 CNTYTX	414.96	.00	.00	.00 PAID	
2nd INST. TOTAL		1,129.96	.00	.00	.00	.00
BILL# 4515						
		715.00	.00	.00	.00 PAID	
2012 RE-R 3	12 City Tx	414.96	.00	.00	.00 PAID	
3	12 CNTYTX	414.96	.00	.00	.00 PAID	
3rd INST. TOTAL		1,129.96	.00	.00	.00	.00
2012 RE-R 4	12 City Tx	715.00	.00	.00	.00 PAID	
4	12 CNTYTX	414.96	.00	.00	.00 PAID	
4th INST. TOTAL		1,129.96	.00	.00	.00	.00
BILL# 4515						
		4,519.84	.00	.00	.00	.00
2012 RE-R 1	12 City Tx	1,107.60	.00	.00	.00 PAID	
1	12 CNTYTX	642.82	.00	.00	.00 PAID	
1st INST. TOTAL		1,750.42	.00	.00	.00	.00
2012 RE-R 2	12 City Tx	1,107.60	.00	.00	.00 PAID	
2	12 CNTYTX	642.81	.00	.00	.00 PAID	
2nd INST. TOTAL		1,750.41	.00	.00	.00	.00
BILL# 4515						
		1,107.60	.00	.00	.00 PAID	
2012 RE-R 3	12 City Tx	642.81	.00	.00	.00 PAID	
3	12 CNTYTX	642.81	.00	.00	.00 PAID	
3rd INST. TOTAL		1,750.41	.00	.00	.00	.00
2012 RE-R 4	12 City Tx	1,107.60	.00	.00	.00 PAID	
4	12 CNTYTX	642.81	.00	.00	.00 PAID	
4th INST. TOTAL		1,750.41	.00	.00	.00	.00

11/01/2012 10:33
1427rmar

CITY OF PLATTSBURGH
CUSTOMER STATEMENT

PG 3
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CURRENT ADDRESS:

PARC
130 ARIZONA AVE STE 2000
PLATTSBURGH NY 12903

LOCATION:

MULTIPLE

PROPERTY CODE:

MULTIPLE

CUSTOMER ID: 7010

INTEREST DATE: 11/01/2012

YEAR TYPE	CHARGE	BILLED	PRIN DUE	INT DUE	FEE/PEN DUE	TOTAL DUE
BILL#	4516	7,001.65	.00	.00	.00	.00
CUSTOMER TOTALS		24,670.13	.00	.00	.00	.00

** END OF REPORT - Generated by Richard Marks **

March 7, 2012

City Chamberlain
City of Plattsburgh
6 Miller Street
Plattsburgh, NY 12901

RE: PARC payment under protest of bill numbers 002935, 002936,
004514, 004515, and 004516.

Dear City Chamberlain,

Enclosed herewith please find PARC's check #16744 in the amount of
\$6,167.60. This payment comprises the first installment due by March
15, 2012 on bill numbers 002935, 002936, 004514, 004515, and 004516.

This payment is being made under protest as further explained below, and
as evidenced by the attached copy of the Court's judgment on this matter.

On March 1, 2011, PARC made timely application under Section 420-a of
the NYS Real Property Tax Law for property tax exemption on its
remaining properties on the former Plattsburgh Air Force Base for the
2011 tax roll. Pursuant to the Assessor's and Board of Assessment
Review's denial of same, PARC initiated an Article 78 proceeding and
petitioned the court to determine the tax exempt status of real property
held by PARC. In November, 2011, the court issued the attached decision
(Index#11-076), which granted PARC's petition for real property tax
exemption; though the City has since filed an appeal, which is still in-
process.

If the Court's judgment is ultimately upheld, PARC will expect a prompt
and timely refund of this payment.

Sincerely,

Lee A. Mitchell

Lee A. Mitchell
Chief Financial Officer

130 Arzuff Ave., Suite 2000

Plattsburgh, NY 12901

Tel: (518) 581-0047

Tel: (518) 581-0022

Fax: (518) 581-0702

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CLINTON

In the Matter of the Application of
PLATTSBURGH AIRBASE REDEVELOPMENT
CORPORATION,

Plaintiff/Petitioner,

For Declaratory Judgment and Judgment
Pursuant to Article 78 of the CPLR

- against -

DEREK ROSENBAUM, as ASSESSOR OF THE CITY OF
PLATTSBURGH; CITY OF PLATTSBURGH BOARD
OF ASSESSMENT REVIEW; JOHN GIRARD, as
CHAIRPERSON OF THE CITY OF PLATTSBURGH
BOARD OF ASSESSMENT REVIEW; CITY OF
PLATTSBURGH; BOARD OF EDUCATION OF
THE PLATTSBURGH CITY SCHOOL DISTRICT;
and THE COUNTY OF CLINTON,

Defendants/Respondents.

NOTICE
OF ENTRY

Index No.: 2011-1076
RJI No.

PLEASE TAKE NOTICE, that the within is a true copy of a Decision and Order dated
November 3, 2011 and entered in the Clinton County Clerk's office on November 4, 2011.

Dated: Albany, New York
November 11, 2011

WHITEMAN OSTERMAN & HANNA LLP

By:


Jonathan P. Nye, Esq.

John J. Henry, Esq.

Attorney for Plaintiff/Petitioner

One Commerce Plaza

Albany, New York 12260

(518) 487-7600

TO: John E. Clute, Esq.
Corporation Counsel
City of Plattsburgh
Attorney for City Defendants/Respondents
121 Bridge Street
Plattsburgh, New York 12901
(518) 563-4884

William Favreau, Esq.
O'Connell and Aronowitz
Attorneys for County Respondents
206 West Bay Plaza
Plattsburgh, New York 12901
(518) 562-0600

Mr. James M. Short
Superintendent of Schools
City of Plattsburgh School District
49 Broad Street
Plattsburgh, New York 12901
(518) 561-6670

At a Special Term of Supreme Court of the State of New York, held in and for the County of Clinton, at the Clinton County Government Center in the City of Plattsburgh, New York, on this 3rd day of November, 2011.

P R E S E N T: HONORABLE PATRICK R. McGILL
Acting Justice Supreme Court

In the Matter of the Application of
PLATTSBURGH AIRBASE REDEVELOPMENT
CORPORATION

DECISION
AND ORDER

-against-

Index#11-1076

DEREK ROSENBAUM, as ASSESSOR OF THE CITY
OF PLATTSBURGH; CITY OF PLATTSBURGH BOARD
OF ASSESSMENT REVIEW; JOHN GIRARD, as
CHAIRPERSON OF THE CITY OF PLATTSBURGH BOARD
OF ASSESSMENT REVIEW; CITY OF PLATTSBURGH;
BOARD OF EDUCATION OF THE PLATTSBURGH CITY
SCHOOL DISTRICT; and THE COUNTY OF CLINTON AND
THE BOARD OF ASSESSMENT

"The original of this copy
of instrument was filed
on Nov 4, 2011."
Clinton County Clerk's Office

APPEARANCES: Jonathan P. Nye, Esq., Attorney for Plaintiff/Petitioner
John E. Clute, Esq., Corporation Counsel City of Plattsburgh

Pending before the Court is an action under CPLR Article 78 and Section 3001 to determine the tax-exempt status of real property held by the Petitioner Plattsburgh Airbase Redevelopment Corporation (PARC) and taxed by the respondents. The action was commenced with a Summons, Notice of Petition, Verified Petition and Complaint, and Affidavit in Support of Verified Petition by Lee Mitchell, filed on July 23, 2011, along with exhibits and a Memorandum of Law. The Respondents Derek Rosenbaum, as Assessor of the City of Plattsburgh, the City of Plattsburgh Board of Assessment Review, John Girard, as Chairperson of the City of Plattsburgh Board of Assessment Review, and the City of Plattsburgh filed an Answer to the Petition and Complaint. The other respondents/defendants have not filed a response to the petition. The petitioner/complainant filed an Affirmation of Jonathan P. Nye, Esq., and Reply Memorandum on September 23, 2011.

The issue before the Court is whether the petitioner is entitled to a tax exemption on vacant land which it holds available for sale. The burden in this case is upon the petitioner to establish that the tax exemption is the only reasonable construction of the applicable statute, (*Federal Deposit Ins. Corp. v Commissioner of Taxation and Finance*, 83 NY2d 44, 49 (1983)). The facts are not in dispute; the matter before the Court is a question of law. The applicable law is Section 420-a of the Real Property Tax Law. That section establishes a three part test to determine if property is exempt from real property taxation; the entity seeking an exemption must be exclusively organized for certain purposes, in petitioner's case charitable purposes; the property must be used primarily to further those purposes; and no pecuniary profits may inure to the entity's officers, members or employees nor may the property be used as a guise for profit-making operations. The property in this case meets all three requirements.

The Court will address each element of the above-enunciated test individually. The first element is whether PARC is a charitable organization. PARC has been recognized by the federal government as a charitable organization under Section 501(c)(3) of the Internal Revenue Code. It also is a Type C, New York not-for-profit corporation organized to oversee the closure of the former Plattsburgh Air Force Base by selling properties on the base. It was created as a result of a cooperative intergovernmental effort for that specific purpose. According to the Third Department's explanation of a charitable organization:

"While there is no precise statutory definition of a charitable purpose, such purpose has been determined to include relief of poverty, advancement of education, promotion of health, **governmental and municipal purposes** (see Restatement [Second] of Trusts § 368 et seq.; see also, 18 N.Y.Jur.2d, Charities, §§ 8, 11-23, at

170-172, 175-188). In noting these activities, Black's Law Dictionary (234 [6th ed. 1990]) states that the phrase, as used for the purpose of tax exemption, has 'as its common element the accomplishment of **objectives which are beneficial to community or area**'" (*Farm Sanctuary, Inc. v Patton*, 221 AD2d 67, 68 (3rd Dept. 1996)(emphasis added).

It is without dispute that PARC was organized to aid governmental entities to transform the former Air Force Base from its use as an air base to use as income producing properties or other properties satisfying a public need. PARC is exempt as a charitable organization from federal taxation, it is exempt from New York corporate franchise taxes, it has been issued an exemption certificate from the New York Department of Taxation and Finance for the sale and use tax for both its sale and purchases of tangible personal property and services. Its certificate of incorporation states that its purpose is to own and maintain real and personal property for the benefit of the City of Plattsburgh, Town of Plattsburgh, and County of Clinton and their inhabitants; to foster job creation and economic development; and to sell property to achieve those purposes. In sum, PARC is a charitable organization based upon the undisputed affidavits submitted to the court.

The second part of the test is whether the properties at issue are used exclusively in furtherance of PARC's purposes. The properties are held by PARC for sale to entities engaged in profit making enterprise and job creation or to fulfill a local public need. PARC was established for this purpose and it holds these properties solely for that purpose. The properties are held for restoration to productive use, the goal of PARC since its creation. Once it has sold all the properties it holds PARC will fulfill its purpose.

Thirdly, PARC is not a profit making organization. It is a Type C not-for-profit corporation.

Further, its certification of incorporation specifically provides that it may not engage in activities prohibited by a corporation exempt from federal income tax under section 501(c) of the Internal Revenue Code.

Finally, the properties (vacant lands) have been prepared by PARC for sale by demolition of obsolete buildings and structures, and asbestos and lead-based paint abatement. The purpose of these actions is to put the property in a marketable condition in anticipation that it will be sold to an entity which will build a structure on the property for profit making purposes or to fulfill a public need. Thus, the requirements of RPTL §420-a (3) are met by PARC.

For the foregoing reasons, the petition is **GRANTED**.

ENTER:



PATRICK R. MCGILL
A. J. S. C.

Dated: November 3, 2011
Plattsburgh, New York

Doc ID: *004384070002 Type: CIV
Recorded: 10/15/2012 at 10:10:42 AM
Fee Amt: \$210.00 Page 1 of 2
Clinton, NY
John H. Zurlo County Clerk
File **2012-00001089**

At a Special Term of Supreme Court of the State of New York, held in and for the County of Clinton, at the Clinton County Government Center in the City of Plattsburgh, New York, on this 9 day of October, 2012.

P R E S E N T: HONORABLE PATRICK R. MCGILL
Acting Justice Supreme Court

PMH

In the Matter of the Application of
PLATTSBURGH AIRBASE REDEVELOPMENT
CORPORATION,

JUDGEMENT

Index#12-1089

Plaintiff/Petitioner,

-against-

DEREK ROSENBAUM, as ASSESSOR OF THE CITY
OF PLATTSBURGH; CITY OF PLATTSBURGH BOARD
OF ASSESSMENT REVIEW; JOHN GIRARD, as
CHAIRPERSON OF THE CITY OF PLATTSBURGH BOARD
OF ASSESSMENT REVIEW; CITY OF PLATTSBURGH;
BOARD OF EDUCATION OF THE PLATTSBURGH CITY
SCHOOL DISTRICT; and THE COUNTY OF CLINTON,

Defendants/Respondents.

APPEARANCES: Jonathan P. Nye, Esq., Attorney for Plaintiff/Petitioner

Before the Court is an action under CPLR Article 78 and Section 3001 to determine the tax-exempt status of real property held by the Petitioner Plattsburgh Airbase Redevelopment Corporation (PARC) and taxed by the respondents. The action was commenced with a Notice of Petition and Verified Petition and Complaint filed on July 30, 2012. The plaintiff/petitioner has also filed an Affidavit in Support of the Verified Petition, of Lee Mitchell, dated July 23, 2012. The return date of the petition was September 20, 2012. The defendants/respondents have filed no opposition to the Verified Petition and Complaint.

The issue before the Court is whether the petitioner is entitled to a tax exemption on five

- 2 -

pieces of real property which it holds available for sale. The properties were declared exempt by order of this Court on November 3, 2011 for the 2011 tax assessment. Tax was again imposed in 2012. According to the pleadings submitted by the petitioner and unopposed by the respondents, there was no material change in the properties, their use, or the status of the petitioner. For the reasons set forth in this Court's order of November 3, 2011, these properties are exempt from taxation on the 2012 assessment roll of the City. For the forgoing reasons, it is hereby

ORDERED the relief requested in the Verified Petition and Complaint is **GRANTED**:

On the first cause of action, (a) the June 14, 2012 determination of the City of Plattsburgh Board of Assessment Review which found that the properties at issue did not qualify for exemption is annulled and set aside; (b) the respondents are directed to correct the relevant assessment roll and reissue any real property tax bills based on the uncorrected assessment; and (c) any overpayment caused by the uncorrected assessment is directed to be reimbursed to PARC; and On the second cause of action, the properties at issue are declared exempt from real property taxes pursuant to RPTL Section 420-a.

SO ORDERED.

ENTER:


PATRICK R. MCGILL
A. J. S. C.

Dated: October 9, 2012
Plattsburgh, New York